

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

NOTICE OF MOTION

Case No. 00-CR-009S

vs.

PETER GERACE and
MICHAEL GEIGER,

Defendants.

COMES NOW the defendant, PETER GERACE, by and through his attorneys, LIPSITZ, GREEN, FAHRINGER, ROLL, SALISBURY & CAMBRIA LLP, PAUL J. CAMBRIA, JR., ESQ., and MICHAEL P. STUERMER, ESQ., of counsel, and JOSEPH LaTONA, ESQ. on behalf of MICHAEL GEIGER, and upon the annexed affidavit of Michael P. Stuermer., Esq., hereby moves this Court for an extension of time within which to file submissions relating to the request for a downward departure pursuant to §5K2.0 based on the defendants' positions in their businesses are extraordinary.

DATED: June 5, 2006

Respectfully submitted,

LIPSITZ, GREEN, FAHRINGER,
ROLL, SALISBURY & CAMBRIA LLP

By s/Michael P. Stuermer

MICHAEL P. STUERMER, ESQ.

PAUL J. CAMBRIA, JR. ESQ.
MICHAEL P. STUERMER, ESQ.
Counsel for Defendant,
PETER GERACE
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TO: TERRANCE P. FLYNN, ESQ.
United States Attorney
138 Delaware Avenue
Buffalo, New York 14202
Attn: ANTHONY M. BRUCE, ESQ.
Assistant United States Attorney

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

**AFFIDAVIT OF
MICHAEL P. STUERMER
AND SUPPORT OF
NOTICE OF MOTION**

vs.

PETER GERACE and
MICHAEL GEIGER,

Defendants.

MICHAEL P. STUERMER, ESQ., being duly sworn, deposes and says:

1. I am an attorney at law duly licensed to practice in the State of New York and I am a senior partner with the law firm of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria, LLP. Paul J. Cambria, Jr., Esq., and I represent the defendant, Peter Gerace, herein.

2. As the Court is aware, sentencing in this matter is scheduled for June 26, 2006.

3. The Court will recall that both Mr. Gerace's and Mr. Geiger's plea agreements permitted their respective defense counsel the opportunity to move for a departure pursuant to §5K2.0 on the basis that their positions in their businesses are extraordinary.

4. Because defense counsel requires additional time to research and draft submissions as well as gather further documentary proof in support of the departure motions, we respectfully request that the Court permit the parties until June 14, 2006 to file their respective

papers on the issue. The Court will recall that defense counsel will also be filing memorandums on June 14th on the issue of restitution.

5. It should be noted that Joseph M. LaTona, Esq. (counsel for Michael Geiger) joins in the aforementioned request and Assistant United States Attorney Anthony Bruce has no objection to this request.

WHEREFORE, counsel respectfully request that the Court rule accordingly.

s/Michael P. Stuermer
MICHAEL P. STUERMER, ESQ.

Sworn to before me this
5th day of June, 2006.

s/Kelly Mahoney
Kelly Mahoney
Commissioner of Deeds
State of New York
Qualified in Erie County
My Commission Expires Dec. 31, 2006

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 00-CR-009S

PETER GERACE and
MICHAEL GEIGER,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2006 I electronically filed defendant's Motion requesting an extension of time within which to file submissions relating to the request for a downward departure pursuant to §5K2.0 based on the defendants' positions in their businesses are extraordinary on Behalf of the Interested parties with the Clerk of the District Court using the CM/ECF system.

I hereby certify that on June 5, 2006 a copy of the foregoing was also delivered to the following using the CM/ECF System.

HON. WILLIAM M. SKRETNY
United States District Court, 68 Court Street, Buffalo, New York 14202

ANTHONY BRUCE, ESQ., ASSISTANT UNITED STATES ATTORNEY
138 Delaware Avenue, Buffalo NY 14202

I hereby certify that on June 5, 2006 a copy of the foregoing was also delivered to the following via hand delivery.

JOSEPH M. LATONA, ESQ.
716 Brisbane Building, Buffalo, New York 14203

DATED: Buffalo, New York
June 5, 2006

s/Kelly Mahoney

Kelly Mahoney